

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**BILL DRAFT 2005-SBz-29 [v.2] (05/03)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**  
**5/15/2006 10:47:44 AM**

Short Title: Land Disturbing Activities Near Trout Waters.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE LAWS GOVERNING LAND-DISTURBING  
ACTIVITIES NEAR TROUT WATERS, AS RECOMMENDED BY THE  
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 113A-57(1) reads as rewritten:

"(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse ~~watercourse~~ unless a buffer zone is provided along the margin of the watercourse

a. Waters other than those classified as trout waters by the Environmental Management Commission shall have a buffer zone of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.

b. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to maintain the ecological functions provided by the buffer zone and confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. ~~Provided, however, that the~~

c. The Sedimentation Control Commission may approve, or approve with modifications, plans which that include land-disturbing activity within the buffer zone along trout waters when the duration of said disturbance would be

temporary and the extent of said disturbance would be minimal if any of the following criteria are met:

1. The land-disturbing activity is planned so as to result in temporary and minimal impacts from erosion and sedimentation. A plan meets this criteria if the applicant demonstrates that the land-disturbing activity disturbs less than ten percent (10%) of the total length of the buffer zone within the tract to be disturbed, disturbs no more than 100 linear feet in each 1,000 linear feet of buffer zone, meets all other provisions of this Article and rules adopted pursuant to this Article, and provides temporary ground cover that controls erosion and sedimentation to at least the same extent as pre-disturbance conditions as soon as practicable, but no more than 21 days after completing the disturbance.
2. The land-disturbing activity exceeds the level of disturbance described in sub-sub-subdivision 1. of this sub-subdivision and is associated with a road that will be a part of the State highway system; a water line; wastewater or other utility infrastructure; a stormwater control structure; or a temporary erosion and sedimentation control device. Impacts to the buffer shall be approved under this sub-sub-subdivision only if the Department finds that the impacts to the buffer cannot reasonably be avoided, impacts have been minimized to the extent practicable, and the area affected by construction activity is restored. An erosion and sedimentation control plan meets the avoidance, minimization, and restoration criteria in this sub-sub-subdivision if the erosion and sedimentation control plan meets all other provisions of this Article and rules adopted pursuant to this Article and demonstrates all of the following:
  - I. The basic project purpose cannot be practically accomplished in a manner that would better avoid erosion and sedimentation impacts to the trout buffer or stream.
  - II. The land disturbing activity cannot be practically reduced in size or density, reconfigured, or redesigned to minimize the temporary and permanent erosion and sedimentation impacts to the trout buffer or stream.

1                                    III. The plan incorporates all reasonable means and  
2                                    measures to restore the trout buffer or stream  
3                                    upon completion of construction.

4                                    3. The land-disturbing activity is part of a stream  
5                                    restoration activity that is designed to improve water  
6                                    quality, aquatic habitat, or habitat along the bank.  
7                                    Stream restoration activities include mitigation projects  
8                                    approved through a State or federal water quality permit  
9                                    or funded by a State or federal program in an effort to  
10                                   improve water quality.

11                                   d. ~~This subdivision~~Sub-subdivision c. of this subdivision shall not  
12                                   apply to a land-disturbing activity in connection with the  
13                                   construction of facilities to be located on, over, or under a lake  
14                                   or natural watercourse."

15                                   **SECTION 2.** This act is effective when it becomes law and applies to land  
16                                   disturbing activities that commence on or after this date.